

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

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UNITED STATES OF AMERICA,

Plaintiff,

v.

KRISTOPHER L. COURTNEY,

Defendant.

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CASE NO. 1:16-cr-00309

ORDER

[Resolving Doc. [72](#)]

JAMES S. GWIN, UNITED STATES DISTRICT COURT JUDGE:

Defendant Courtney seeks a sentence reduction under 18 U.S.C. § 3582(c)(1)(A)(ii).<sup>1</sup>

Defendant Courtney argues that a nonretroactive sentencing law change created an extraordinary and compelling reason to reduce his sentence.<sup>2</sup>

Defendant Courtney's argument relies on a recently-vacated Sixth Circuit panel decision, *United States v. McCall*, 20 F.4th 1108 (6th Cir. 2021). In April, the Sixth Circuit vacated that decision and set the case for rehearing *en banc*.<sup>3</sup> The Sixth Circuit will hear oral argument *en banc* on June 8, 2022.<sup>4</sup>

Now, the government moves to hold Defendant Courtney's motion in abeyance until after the Sixth Circuit issues a decision in the *McCall* case.<sup>5</sup> The government argues that the Sixth Circuit ruling will clarify conflicting panel decisions about the effect of nonretroactive sentencing law changes on compassionate release motions.

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<sup>1</sup> Doc. [68](#); Doc. [70](#).

<sup>2</sup> Doc. [70](#) at 3-5.

<sup>3</sup> *United States v. McCall*, 29 F.4th 816 (Mem) (6th Cir. 2022).

<sup>4</sup> Sixth Circuit Oral Argument Calendar, [https://www.ca6.uscourts.gov/sites/ca6/files/documents/oral\\_argument\\_calendars/06062022\\_arg.pdf](https://www.ca6.uscourts.gov/sites/ca6/files/documents/oral_argument_calendars/06062022_arg.pdf) (last visited May 24, 2022).

<sup>5</sup> Doc. [72](#).

Case No.  
GWIN, J.

The Court **GRANTS** the government's motion to hold Defendant Courtney's compassionate release motion in abeyance until after the Sixth Circuit issues the *en banc* decision in *United States v. McCall*.<sup>6</sup>

IT IS SO ORDERED.

Dated: May 25, 2022

s/ James S. Gwin  
JAMES S. GWIN  
UNITED STATES DISTRICT JUDGE

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<sup>6</sup> *United States v. McCall*, No. 21-3400 (6th Cir.).